

**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
CONSUMER SERVICES DIVISION**

IN THE MATTER OF the Mortgage Broker
licensing application of:

RYSTADT & ESCOBAR, INC. and
CURTIS RYSTADT, Owner

Respondents.

NO. C-04-139-04-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENT TO DENY
MORTGAGE BROKER LICENSE

INTRODUCTION

Pursuant to RCW 19.146.220 and RCW 19.146.223, the Director of the Department of Financial Institutions of the State of Washington ("Director") is responsible for the administration of chapter 19.146 RCW, the Mortgage Broker Practices Act ("Act"). The referenced statutes (RCW) and rules (WAC) are attached, in pertinent part. After having conducted an investigation and full review of the application, and based upon the facts available, the Director institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondents:

A. Rystadt and Escobar, Inc. ("Respondent R&E") is an applicant for a Mortgage Broker license in the State of Washington. Respondent R&E is currently licensed as a mortgage broker in the state of Oregon.

B. Curtis Rystadt ("Respondent Rystadt") is the owner and designated broker of Respondent R&E.

1.2 Application for License: On October 10, 2003, Respondent R&E filed an application under chapter 19.146 RCW for a license to conduct business as a mortgage broker in the State of Washington. No license has been issued to R&E to conduct business as a mortgage broker in the State of Washington.

1 **1.3 Credit History:** On December 15, 2003, the Department received Respondent's independently prepared
2 credit history that indicated that Respondent has federal and state tax liens amounting to \$105,023.00 for
3 failure to pay his federal and state taxes. While the Respondent later was able to prove he had paid off
4 one of the state imposed liens for \$4,743.00, the remaining three liens for \$100,280.00 still exist.

5 **II. GROUNDS FOR ENTRY OF ORDER**

6 **2.1 Licensing Requirement:** Pursuant to RCW 19.146.220(1), a person may not engage in the business of
7 a mortgage broker without first obtaining a license.

8 **2.2 Authority to Deny License:** Pursuant to WAC 208-660-160(5)(b), the Director may deny a license if
9 the applicant has failed to demonstrate financial responsibility as demonstrated by an independent credit report
10 issued by a recognized credit reporting agency indicating that the person has a substantial history of unpaid
11 debts.

12 **III. NOTICE OF INTENT TO ENTER ORDER**

13 Respondents' failure to comply with 19.146 RCW and chapter 208-660 WAC, as set forth in the above
14 Factual Allegations and Grounds for Entry of Order, constitute a basis for the entry of an Order under RCW
15 19.146.220. Therefore, it is the Director's intention to ORDER that Respondent's Mortgage Broker License
16 Application be denied.

17 **IV. AUTHORITY AND PROCEDURE**

18 This Statement of Charges and Notice of Intent to Deny Mortgage Broker License is entered pursuant to the
19 provisions of RCW 19.146.220, RCW 19.146.221 and RCW 19.146.230, and is subject to the provisions of
20 chapter 34.05 RCW (The Administrative Procedure Act). Respondents may make a written request for a
21 hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR
22 HEARING accompanying this Statement of Charges and Notice of Intent to Deny Mortgage Broker License.
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1 Dated this 14th day of June, 2004.

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Presented by:

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Deborah Bortner
Financial Legal Examiner

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/s

CHUCK CROSS, DIRECTOR
DIVISION OF CONSUMER SERVICES
DEPARTMENT OF FINANCIAL INSTITUTIONS

RCW 19.146.220 Director – Powers and duties – Violations as separate violations – Rules. (1) The director shall enforce all laws and rules relating to the licensing of mortgage brokers, grant or deny licenses to mortgage brokers, and hold hearings.

(2) The director may impose the following sanctions:

(a) Deny applications for licenses for: (i) Violations of orders, including cease and desist orders issued under this chapter; or (ii) any violation of RCW 19.146.050 or 19.146.0201 (1) through (9);

(b) Suspend or revoke licenses for:

(i) False statements or omission of material information on the application that, if known, would have allowed the director to deny the application for the original license;

(ii) Failure to pay a fee required by the director or maintain the required bond;

(iii) Failure to comply with any directive or order of the director; or

(iv) Any violation of RCW 19.146.050, 19.146.060(3), 19.146.0201 (1) through (9) or (12), 19.146.205(4), or 19.146.265;

(c) Impose fines on the licensee, employee or loan originator of the licensee, or other person subject to this chapter for:

(i) Any violations of RCW 19.146.0201 (1) through (9) or (12), 19.146.030 through 19.146.080, 19.146.200, 19.146.205(4), or 19.146.265; or

(ii) Failure to comply with any directive or order of the director;

(d) Issue orders directing a licensee, its employee or loan originator, or other person subject to this chapter to:

(i) Cease and desist from conducting business in a manner that is injurious to the public or violates any provision of this chapter; or

(ii) Pay restitution to an injured borrower; or

(e) Issue orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker or any person subject to licensing under this chapter for:

(i) Any violation of 19.146.0201 (1) through (9) or (12), 19.146.030 through 19.146.080, 19.146.200, 19.146.205(4), or 19.146.265; or

(ii) False statements or omission of material information on the application that, if known, would have allowed the director to deny the application for the original license;

(iii) Conviction of a gross misdemeanor involving dishonesty or financial misconduct or a felony after obtaining a license; or

(iv) Failure to comply with any directive or order of the director.

(3) Each day's continuance of a violation or failure to comply with any directive or order of the director is a separate and distinct violation or failure.

(4) The director shall establish by rule standards for licensure of applicants licensed in other jurisdictions.

(5) The director shall immediately suspend the license or certificate of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

RCW 19.146.221 Action by director – Hearing – Sanction. The director may, at his or her discretion and as provided for in *RCW 19.146.220(2), take any action specified in RCW 19.146.220(1). If the person subject to such action does not appear in person or by counsel at the time and place designated for any administrative hearing that may be held on the action then the person shall be deemed to consent to the action. If the person subject to the action consents, or if after hearing the director finds by a preponderance of the evidence that any grounds for sanctions under this chapter exist, then the director may impose any sanction authorized by this chapter. [1994 c 33 § 13.]

RCW 19.146.223 Director – Administration and interpretation. The director shall have the power and broad administrative discretion to administer and interpret the provisions of this chapter to fulfill the intent of the legislature as expressed in RCW 19.146.005. [1994 c 33 § 2.]

1 **RCW 19.146.225 Director – Rule-making powers.** In accordance with the administrative procedure act, chapter 34.05
2 RCW, the director may issue rules under this chapter only after seeking the advice of the mortgage brokerage
commission and to govern the activities of licensed mortgage brokers and other persons subject to this chapter. [1994 c
33 § 15; 1993 c 468 § 9.]

3 **RCW 19.146.230 Administrative procedure act application.** The proceedings for denying license applications, issuing
4 cease and desist orders, suspending or revoking licenses, and imposing civil penalties or other remedies issued pursuant
to this chapter and any appeal therefrom or review thereof shall be governed by the provisions of the administrative
5 procedure act, chapter 34.05 RCW. [1994 c 33 § 16; 1993 c 468 § 10.]

WAC 208-660-160 License application denial or condition; license suspension or revocation. The director may deny or condition approval of a license application, or suspend or revoke a license if the applicant or licensee, or any principal or designated broker of the applicant or licensee:

- (1) Has failed to pay a fee due to the state in accordance with the Mortgage Broker Practices Act;
- (2) Has not filed the required surety bond or approved alternative or otherwise complied with RCW [19.146.205](#);
- (3) Has had any license, or any authorization to do business under any similar statute of this or any other state, suspended, revoked, or restricted within the prior five years;
- (4) Has within the prior seven years been convicted of a felony, or a gross misdemeanor involving dishonesty or financial misconduct;
- (5) Has failed to demonstrate financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a belief that the business will be operated honestly, fairly, and efficiently within the purposes of the Mortgage Broker Practices Act. The director may find that the person has failed to make the demonstration if, among other things:
 - (a) The person is or has been subject to an injunction issued pursuant to the Mortgage Broker Practices Act or the Consumer Protection Act; or
 - (b) An independent credit report issued by a recognized credit reporting agency indicates that the person has a substantial history of unpaid debts;
- (6) Has omitted, misrepresented, or concealed material facts in obtaining a license or in obtaining reinstatement thereof;
- (7) Has violated the provisions of the Mortgage Broker Practices Act, or the Consumer Protection Act;
- (8) Has had its surety bond, approved alternative, or equivalent form of business insurance, canceled or revoked for cause;
- (9) Has allowed the licensed mortgage broker business to deteriorate into a condition which would result in denial of a new application for a license;
- (10) Has aided or abetted an unlicensed person to practice in violation of the Mortgage Broker Practices Act;
- (11) Has demonstrated incompetence or negligence that results in injury to a person or that creates an unreasonable risk that a person may be harmed;
- (12) Is insolvent in the sense that the value of the applicant's or licensee's liabilities exceed its assets or in the sense that the applicant or licensee cannot meet its obligations as they mature;
- (13) Has failed to comply with an order, directive, or requirement of the director, or his or her designee, or with an assurance of discontinuance entered into with the director, or his or her designee;
- (14) Has performed an act of misrepresentation or fraud in any aspect of the conduct of the mortgage broker business or profession;

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- (15) Has failed to cooperate with the director, or his or her designee, including without limitation by:
- (a) Not furnishing any necessary papers or documents requested by the director for purposes of conducting an investigation for disciplinary actions or denial, suspension, or revocation of a license; or
 - (b) Not furnishing any necessary papers or documents requested by the director for purposes of conducting an investigation into a complaint against the licensee filed with the department, or providing a full and complete written explanation of the circumstances of the complaint upon request by the director;
- (16) Has interfered with an investigation or disciplinary proceeding by willful misrepresentation of facts before the director or the director's designee, or by the use of threats or harassment against a client, witness, employee of the licensee, or representative of the director for the purpose of preventing them from discovering evidence for, or providing evidence in, any disciplinary proceeding or other legal action;
- (17) Has failed to provide a required certificate of passing an approved examination;
- (18) Has failed to provide a required certificate of satisfactory completion of an approved licensing course or, in the alternative, satisfactory proof of two years' experience in accordance with WAC [208-660-040](#); or
- (19) Has failed to provide a required certificate of satisfactory completion of an approved continuing education course.